IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3278 OF 2007

Shri Kashinath R. Kolwankar : Petitioner
(Orig.Defendant)

V/s.

Smt.Sunanda W/o. Ramakant Desai & Ors. : Respondents
(Orig.Plaintiffs)

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Mr.Kiran Jain with Ms Nita Solanki and Mr.Sunil Kanuja i/b. M/s.Kiran Jain & Co., for the petitioner.

Mr.Gajanan R. Desai, respondent no.2 present in person.

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CORAM : S.A.BOBDE, J.

DATE : JULY 6, 2007.

P.C.

1. By this Writ Petition, the petitioner has challenged the impugned order dated 4.4.2007 passed by the learned Small Causes Court at Mumbai. The petitioner-respondent has filed a suit for eviction against the petitioner. It appears to be one of the defences of the petitioner that the respondent is not the owner of the building, but the building belongs to one Naigaon Co-operative Housing Society. He, therefore, moved an application to examine one Shenoy who, according to him, is the Chairman of the

society. The matter has been expedited by this Court. It appears from the order that a large number of documents have been produced on record. This application was apparently moved after the defendant's cross-examination was completed. The learned trial Judge has gone through the entire evidence and has come to the conclusion that, in fact, the defendant has not given any cogent reasons why the witnesses are not required to be examined. The only reason stated by the learned counsel for the petitioner is that the documents pertaining to the B.M.C. records are necessary because, according to him, the B.M.C. had allotted the land in question for the purpose of a building by the society and not in respect of any individual. Apparently, the trial Court has considered the relevance of the documents and the witnesses and has come to the conclusion that it may not be necessary to examine the witness proposed by the petitioner. The trial Court has found that the witnesses are absolutely not necessary for the defendant to give any more evidence on the issues in respect of the dispute. It was stated by the learned counsel for the petitioner that the ownership of the building has been held to be that of the society, according to the Registrar. The petitioner is certainly entitled to produce a copy of the order of the Registrar before the trial Court for the purpose. The impugned order is an interlocutory order and does not deserve any

interference by this Court.

2. The Writ Petition is dismissed.

S.A. BOBDE, J.